

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

GENA HOVERS, Individually, and as  
Parent, Guardian, and Next Friend of  
FISHER HOVERS, a Minor Child,

Plaintiffs,

v.

THE TJX COMPANIES, INC, TJ  
MAXX, INC., ABC  
CORPORATION(S) 1-5, and JOHN  
DOE(S) 1-5,

Defendants.

Civil Action  
File No.:

---

**THE TJX COMPANIES, INC.'S PETITION FOR REMOVAL**

---

TO: The Honorable Judges of the United States District Court for the Northern  
District of Georgia, Atlanta Division

COME NOW, The TJX Companies, Inc. by and through its undersigned  
counsel, and file its Petition for Removal and respectfully show this Court the  
following:

1. TJX is a named defendant in a civil action brought against it in the State  
Court of Henry County, State of Georgia, in this District and Division, the same being  
entitled Gena Hovers, Individually, and as Parent, Guardian, and Next Friend of Fisher  
Hovers v. The TJX Companies, Inc. and TJ Maxx, Inc., Civil Action File No.  
STSV2023000287.

2. The Summons and Complaint in that action were filed in the State Court of Henry County on February 10, 2023, as were first received by TJX by service through TJX's registered agent on February 13, 2023. Thus, TJX timely files this petition for removal.

3. TJX files herewith a copy of all process, pleadings, and orders including the Summons and Complaint in this action, pursuant to 28 USC § 1446. (Attached hereto as Exhibits A and B).

4. Plaintiff is and, at all times relevant, was a citizen of the State of Georgia.

5. TJX Companies, Inc. is now, was at the commencement of this suit, and at all times since been a corporation organized and existing under the laws of Delaware having its principal place of business in Massachusetts.

TJ Maxx, Inc, a wholly owned subsidiary, is now, and was at the commencement of this suit, and at all times since been a corporation organized and existing under the laws of Delaware having its principal place of business in Massachusetts.

6. In the lawsuit, Plaintiff also named various fictitious defendants. 28 USC § 1441(b)(1) provides that "[i]n determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded. Accordingly, this Court can ignore all fictitious defendants for purposes of establishing diversity jurisdiction.

7. When considering whether complete diversity of the parties, the Plaintiff is a citizen of Georgia, and Defendants are considered a citizen of Delaware of Massachusetts. Therefore, complete diversity exists, and this case is properly removed pursuant to the provisions of 28 U. S. C. §§ 1332, 1367, and 1441 et seq. the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

8. Plaintiff's Complaint alleges a shopping cart flipped over on top of the minor child on March 29, 2021, while shopping. The complaint itemizes \$11,129.65 in special damages for injuries to the minor child's finger. Plaintiff further alleges the minor child suffered extensive physical pain, suffering, and mental anguish.

9. The complaint makes additional claims for damages which are not itemized, including "bad faith/attorney's fees," future medical expenses, past and future pain and suffering, past and future loss of life, and permanent impairment.

10. "When the complaint does not claim a specific amount of damages, removal from state court is proper if it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement. If the jurisdictional amount is not facially apparent from the complaint, the court should look to the notice of removal and may require evidence relevant to the amount in controversy at the time the case was removed." Williams v. Best Buy Co., Inc., 269 F.3d 1316, 1319 (11th Cir. 2001).

11. Because no specific amounts are alleged for several elements of damages, including general damages and attorney's fees, this court should look to "other paper" to determine if the amount in controversy is met. Plaintiff's counsel served a pre-suit demand letter on October 10, 2022, which provides more information on the amount in controversy. (See Exhibit C)

12. The demand provides additional factual background, claiming Plaintiff's minor child was injured "when a shopping cart located in a TJ Maxx store collapsed on top of him while he and his mother were shopping." (Exhibit C, p. 1). The demand goes on to state the child was immediately rushed to Children's Healthcare of Atlanta (Exhibit C, p. 1). The minor child suffered a left-hand injury which included a thumb fracture, tissue swelling, and restricted movement. (Exhibit C, p. 2). Plaintiff alleges in her pre-suit demand the minor child "was unable to resume to his normal activities as a three-year-old toddler as a result of his injuries." Plaintiff concluded the letter demanding a total sum of \$100,000.00 to settle. (Exhibit C, p. 3).

In total, Plaintiff is claiming \$100,000. Thus, Plaintiff's alleged damages exceed the jurisdictional sum of greater than \$75,000, exclusive of interests and costs.

13. This action is a civil action of which this Court has original jurisdiction under the provisions of Title 28 of the United States Code §1332(a) and accordingly, is one which may be removed to this Court by Defendant pursuant to the provisions of Title 28 of the United States Code §1441, in that it is a civil action in which the matter

in controversy exceeds the sum of \$75,000.00 exclusive of interests and costs and is between citizens of different states.

14. TJX attached a copy of TJX's Notice of Removal, which is being submitted for filing to the State Court of Gwinnett County, Georgia. A copy is attached as Exhibit D.

15. This action is currently pending in the State Court of Gwinnett County, which is within the jurisdiction of the Northern District of Georgia, Atlanta Division. 28 U.S.C.A. § 1446(a).

WHEREFORE the Defendant prays the above action removed to this Court remain in this Court's jurisdiction.

This 7th day of March, 2023.

Chartwell Law  
Attorneys for The TJX Companies, Inc. and TJ  
Maxx, Inc.

By: /s/ Robert A. Luskin  
ROBERT A. LUSKIN  
GA State Bar No. 004383  
rluskin@chartwelllaw.com  
3200 Cobb Galleria Pkwy Suite 250  
Atlanta, GA 30339  
(404) 410-1151 Phone  
(404) 738-1632 Fax

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

GENA HOVERS, Individually, and as  
Parent, Guardian, and Next Friend of  
FISHER HOVERS, a Minor Child,

Plaintiffs,

v.

THE TJX COMPANIES, INC, TJ  
MAXX, INC., ABC  
CORPORATION(S) 1-5, and JOHN  
DOE(S) 1-5,

Defendants.

Civil Action  
File No.:

---

**CERTIFICATE OF COMPLIANCE**

---

The foregoing document is double spaced in 14 point Times New Roman font  
and complies with the type-volume limitation set forth in Local Rule 5.1(B).

By: /s/ Robert A. Luskin  
ROBERT A. LUSKIN  
GA State Bar No. 004383  
rluskin@chartwelllaw.com  
3200 Cobb Galleria Pkwy Suite 250  
Atlanta, GA 30339  
(404) 410-1151 Phone  
(404) 738-1632 Fax

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

GENA HOVERS, Individually, and as  
Parent, Guardian, and Next Friend of  
FISHER HOVERS, a Minor Child,

Plaintiffs,

v.

THE TJX COMPANIES, INC, TJ  
MAXX, INC., ABC  
CORPORATION(S) 1-5, and JOHN  
DOE(S) 1-5,

Defendants.

Civil Action  
File No.:

---

**CERTIFICATE OF SERVICE**

---

This is to certify that I electronically filed this with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

F. Brady Rigdon, Esq.  
Monge & Associates  
8205 Dunwoody Place  
Building 19  
Atlanta, Georgia 30350  
brady@monge.lawyer

*[Signature to Follow]*

This 7th day of March, 2023.

/s/ Robert A. Luskin

ROBERT A. LUSKIN

GA State Bar No. 004383

[rluskin@chartwelllaw.com](mailto:rluskin@chartwelllaw.com)

3200 Cobb Galleria Pkwy, Suite 250

Atlanta, GA 30339

(404) 410-1151 Phone

(404) 738-1632 Fax